

EXHIBIT 5

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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK
3 MASTER DOCKET 18-MD-2865 (LAK)
4 CASE NO. 18-CV-09797

5 IN RE:
6 CUSTOMS AND TAX ADMINISTRATION OF
7 THE KINGDOM OF DENMARK
8 (SKATTEFORVALTNINGEN) TAX REFUND
9 SCHEME LITIGATION

10
11
12 C O N F I D E N T I A L

13
14
15 REMOTE VTC VIDEOTAPED DEPOSITION UNDER ORAL
16 EXAMINATION OF
17 MICHAEL BEN-JACOB

18 DATE: October 11, 2021

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25 REPORTED BY: MICHAEL FRIEDMAN, CCR

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1 P R O C E E D I N G S

2

3 M I C H A E L B E N - J A C O B ,

4 called as a witness, having been first

5 duly affirmed according to law, testifies as

6 follows:

7 * * * * *

8 EXAMINATION BY MR. MAGUIRE:

9 Q Good morning, Mr. Ben-Jacob?

10 A Good morning.

11 Q My name is Bill Maguire. I'm going
12 to be asking you some questions.

13 If there's any question that you
14 don't understand, please don't answer it.

15 Please just let me know you don't understand
16 the question and give me an opportunity to
17 clarify the question so you do understand it.

18 Is that okay?

19 A Sure. Thank you.

20 Q That way we'll have a clear record.

21 And we will know that when you have answered
22 a question, you understood the question.

23 Is that fair?

24 A Yes.

25 Q Now, sir, we're going to be talking

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1 about some of your former clients who are
2 defendants in these proceedings.
3 Specifically, Mr. Markowitz, Mr. Van
4 Merkensteijn, and Mr. Klugman.

5 Okay?

6 A Okay.

7 Q And there may be some other former
8 clients who are not defendants who come up,
9 specifically Mr. Stein, Mr. Lhote, and
10 Mr. McGee.

11 Okay?

12 A Understood.

13 Q There are other entities that
14 you've represented; Argre and Maple Point.

15 Is that right?

16 MR. DEWEY: Objection.

17 A Can you please clarify? What do
18 you mean by "you've represented?"

19 Q You had engagements or provided
20 services to Argre in the past.

21 Is that true?

22 A My firm provided services and was
23 engaged by our employer, as I said,
24 Kaye Scholer. And in that context, I did as
25 well.

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1 Mr. Van Merkenstijn, and Mr. Klugman did
2 with Solo Capital?

3 A Again, can you explain what you
4 mean by "all aspects?"

5 Q Well, let me ask you.

6 Did you submit to your firm's
7 compensation committee a memorandum in which
8 you said that you were called upon by your
9 longstanding Argre client to implement all
10 aspects of annex dividend trading strategy?

11 MR. DEWEY: Objection.

12 A I'm sorry. Are you quoting from a
13 letter or a memorandum of mine?

14 Q I'm asking you.

15 Do you recall saying that to your
16 compensation committee?

17 A I do not recall that, saying that
18 in that conversation.

19 Q Is it true that you were called
20 upon by Argre to implement all aspects of
21 annex dividend trading strategy?

22 MR. DEWEY: Objection.

23 A And I'm sorry. I just need to
24 understand what you mean when you say the
25 words "all."

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1 Q I'm asking you for your
2 understanding, in your words, if you
3 understand that's what you were called upon
4 to do?

5 A Well, since I don't have a
6 recollection of using those words, I would
7 say it is not true that we were called upon
8 to use -- to -- I say "we," meaning my
9 firm -- was called upon to implement or
10 advise upon all aspects.

11 We were asked to advise upon U.S.
12 legal issues, U.S. tax and pension plan
13 issues, and occasional other coordination of
14 advice with foreign counsel and
15 administrative matters.

16 But I was certainly not involved in
17 all aspects.

18 Q Let me ask you, please, to turn to
19 Exhibit 4480?

20 MR. MAGUIRE: Mark 4480.

21 (Whereupon the above mentioned was
22 marked for identification.)

23 A I'm sorry. Yes, so I have this
24 exhibit in front of me.

25 Q And can you tell us, what is this